

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Sen. Rev. & Tax Comm. Analyst: Jeani Brent Bill Number: SB 2234

Related Bills: See Prior Analysis and Leg. History Telephone: 845-3410 Amended Date: 08/25/98

Attorney: Doug Bramhall Sponsor: Franchise Tax Board

**SUBJECT:** AB 3086 Clean-up/ Alimony Ded./Excess SDI/Federal Adjs./AMT Depr./Tech. Credit Repeal Language/LARZ NOL/Voly Con/AB 2797 & 2798 Clean-up

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of bill as amended July 1, 1998.
- ☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.
- \_\_\_\_\_ FURTHER AMENDMENTS NECESSARY.
- \_\_\_\_\_ DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED March 3, 1998, AND AS AMENDED April 13, 1998, and July 1, 1998, STILL APPLY.
- ☒ OTHER - See comments below.

### SUMMARY OF BILL

1. Clarify the Unemployment Insurance Code (UIC) requirement amended by AB 3086 (Stats. 1994, Ch. 1049) regarding which amounts must be included in the Report of Wages by specifically including amounts withheld from pensions, annuities, and other forms of deferred compensation.
2. Provide that nonresidents prorate the deduction for alimony payments in the same manner as the nonresident tax is prorated.
3. Retain the program to refund excess state disability insurance through the tax return while ensuring that taxpayers who fail to claim the credit on their return still would be identified as quickly as possible to receive a refund of their excess contributions.
4. Make several changes relating to federal adjustments regarding defining the final federal determination date and requirements for taxpayers to notify the department of any federal changes to their tax return.
5. Make a technical correction to the alternative minimum tax (AMT) provisions to refer to the depreciation provisions under the Bank and Corporation Tax Law (B&CTL) rather than those under the Internal Revenue Code (IRC).
6. Make nonsubstantive technical changes to various credits by eliminating redundant language regarding the carryover of repealed or inoperative credits.
7. Correct a chaptering error by reinstating the December 1, 1998, sunset date of the Los Angeles Revitalization Zone (LARZ) net operating loss (NOL) as enacted by AB 18 (Stats. 1993, Ch. 18).
8. Clear up inconsistencies regarding voluntary contribution funds and delete redundant and unnecessary language.
9. Clean up technical issues made necessary by the enactment of AB 2797 (Stats. 1998, Ch. 322) and AB 2798 (Stats. 1998, Ch. 323).

### Board Position:

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☐ N ☐ OUA ☐ PENDING

Department/Legislative Director Date

Johnnie Lou Rosas 9/11/98

This bill also would provide language to double-join this bill to AB 3 and would make changes to cigarette stamp procedures. These issues are not discussed in this analysis because (1) the double-joining issue is purely technical and (2) the cigarette stamp program is not administered by the department.

#### SUMMARY OF AMENDMENT

The July 30, 1998, amendments added the language, identified as #8 above, relating to voluntary contributions.

The August 25, 1998, amendments added the provisions identified as #9 above, relating to AB 2797 and AB 2798 clean-up and added the language to double-join this bill to AB 3 and the language regarding cigarette stamp procedures.

Issues #8 and #9 will be discussed separately in this analysis. The discussion of item #1 above in the department's analysis of the bill as introduced still applies, the discussion of items #2, #3, and #4 in the department's analysis of the bill as amended April 13, 1998, still applies, and the discussion of items #5, #6, and #7 in the department's analysis of the bill as amended July 1, 1998, still applies.

#### ISSUE #8: VOLUNTARY CONTRIBUTION

##### EFFECTIVE DATE

This provision would apply to taxable years beginning on or after January 1, 1998.

##### LEGISLATIVE HISTORY

AB 2955 (Ch. 960, Stats. 1996), AB 1350 (Ch. 1221, Stats. 1993)

##### SPECIFIC FINDINGS

**Existing state law** allows taxpayers to designate contributions to ten voluntary contribution funds on their 1997 individual state income tax returns filed in 1998. The Administration of Franchise and Income Tax Law (AFITL) requires the department to collect the contributions and notify the Controller's Office of the amounts to transfer into the individual fund accounts.

Except for the California Seniors Special Fund, **existing state law** requires that, in the event that payments and credits reported on the return do not exceed the individual's tax liability, the return is treated as if no designation has been made.

Except for the California Seniors Special Fund and the California Mexican American Veterans' Memorial Beautification and Enhancement Account, **existing state law** requires that contributions with no specified designee be transferred to the General Fund.

Except for the California Seniors Special Fund, **existing state law** requires that if contributions are made to more than one account and insufficient moneys exist for each designated contribution, the moneys would be prorated among those designated funds.

The State Children's Trust Fund, the California Fund for Senior Citizens and the Fish and Game Preservation Fund require the individual be notified in cases where 1) no designee is identified; 2) the contribution amount is transferred to the General Fund; and 3) the discrepancy between the amount actually available for designation and the amount designated exceeds \$10.

Because of the inconsistencies between the various voluntary contribution funds, occasionally, the department must refund the total designation amount to the taxpayer.

**Existing state law** allows taxpayers to designate contributions to the California Mexican American Veterans' Memorial Beautification and Enhancement Account ("Account"). However, the designation check-off may appear on the tax return for contribution only after the Veterans' Memorial Commission has notified the department in writing that the Veterans' Memorial is completely constructed. If the Veterans' Memorial is completed and the Veterans' Memorial Commission notifies the department prior to September 1 of any taxable year, the designation check-off would first appear for contribution on the tax return filed for the taxable year beginning on or after January 1 of the year of completion. If the department is notified after September 1, the designation check-off would first appear on the tax return filed for the taxable year beginning on January 1 of the following year. The designation check-off would remain on the tax return until the fifth taxable year following the notification.

**This bill** would create a general provision under the Administration of Franchise and Income Tax Laws directing that 1) voluntary contributions with no specified designee be transferred to the General Fund; and 2) when more than one voluntary contribution is designated and insufficient moneys exist to satisfy the total amount designated, the amount would be allocated among the designees on a pro rata basis. **This bill** would delete language in those voluntary contribution funds that would become redundant and unnecessary as a result of the general provision created by this bill.

**This bill** would replace the requirement that the Veterans' Memorial Commission notify the department that the Veterans' Memorial is "completely constructed" with the requirement of notification that the "construction has commenced." Further, the notification could be received by the department at any time during the year the construction commences and the designation for the California Mexican American Veterans' Memorial Beautification and Enhancement Account would first appear on the tax return for the taxable year beginning on or after January 1 of that year. These changes would allow the department to place the Mexican American Veterans' Fund on the 1998 tax return even though construction of the Veterans Memorial will not be complete until after September 1, 1998.

#### Policy Considerations

This bill would establish a general provision ensuring that all current and future voluntary contribution funds would be administered in the same manner, unless otherwise specified.

The Veterans' Memorial Fund has been repealed from the law and did not appear on the 1997 tax return. This bill would allow the Mexican American Veterans' Fund to appear on the 1998 tax return, rather than being delayed to the 1999 tax return.

### Implementation Consideration

Procedural, schedule, and instruction changes could be incorporated during the department's normal annual update.

### FISCAL IMPACT

#### Departmental Costs

This provision would not significantly impact the department's costs.

#### Tax Revenue Estimate

Based on information and assumptions discussed below, revenue losses from the changes to the California Mexican American Veterans' Memorial Beautification and Enhancement Account provisions are estimated to be insignificant, less than \$20,000 per year.

#### Tax Revenue Discussion

According to department data, the total amount of voluntary contributions for all funds was nearly \$2.5 million in fiscal year 1996/97 with an average of nearly \$200,000 per existing fund.

Assuming the average level of contributions to the California Mexican American Veterans' Memorial Beautification and Enhancement Account (with no reductions for other contributions normally reported), revenue losses from allowed deductions would be on the order of \$16,000 per year by applying an 8% average marginal tax rate.

### **ISSUE #9: AB 2797 and AB 2798 CLEAN-UP**

#### SPECIFIC FINDINGS

This bill would make the following technical clean-up changes made necessary by the enactment of AB 2797 (Stats. 1998, Ch. 322) and AB 2798 (Stats. 1998, Ch. 323).

1. AB 2798, as enacted, modified the apportionment formula for all other economic development area tax incentives, including the LAMBRA net operating loss, but inadvertently left out the modifications for the apportionment formula for the LAMBRA tax credits. This provision would make the appropriate apportionment formula changes to the LAMBRA credits.
2. Make a technical correction to the minimum franchise tax provisions contained in AB 2798 by clarifying the type of corporation that would be included in the definition of "qualified new corporation."
3. Make a technical correction to the Scholarshare provision contained in AB 2797 by adding the words "and this part."
4. Make a technical correction to the net operating loss provision contained in AB 2797 by removing the unnecessary reference to "or partnership" and removing the word "either."

5. Make a technical correction to the life insurance premiums provision contained in AB 2797 by replacing the word "of" with "or" in the last subdivision.
6. Make a technical correction to the enterprise zone sales or use tax credit to change "either a bank or corporation" to be "a corporation" since banks are included in the definition of corporation.

#### Policy Consideration

These clean-up provisions would aid the administration of the law by simplifying reporting requirements for LAMBRA taxpayers and alleviating any potential confusion that may result from these technical issues.

#### Implementation Considerations

Implementing this provision would not affect the department's programs and operations.

### FISCAL IMPACT

#### Departmental Costs

No departmental costs are associated with this provision.

#### Tax Revenue Estimate

The tax revenue impact of modifying the apportionment formula for the LAMBRA tax credits was included in the analysis for AB 2798. The other provisions would not impact the state's income tax revenue.